



0000103825

Transcript Exhibit(s)

Docket #(s): W-201637A-08-0560

Exhibit #: 51

Arizona Corporation Commission

DOCKETED

OCT 18 2009

DOCKETED BY	<u>mn</u>
-------------	-----------

AZ CORP COMMISSION
DOCKET CONTROL

2009 OCT 13 P 2:12

RECEIVED

LEGAL
ALL-STATE LEGAL
EXHIBIT
S-1
ADMITTED

MEMORANDUM

2009

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division

RECEIVED

AZ CL
DOC

SEP 1 2009

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

Date: September 1, 2009

RE: STAFF REPORT FOR CUP OF GOLD WATER COMPANY, INC., AN ARIZONA
NON-PROFIT CORPORATION, - APPLICATION FOR ADJUDICATION NOT A
PUBLIC SERVICE CORPORATION (DOCKET No. W-20637A-08-0560)

Attached is the Staff Report for Cup of Gold's application for Adjudication Not a Public
Service Corporation. Staff is recommending approval of this application.

EGJ:KMS:tdp

Originator: Kiana M. Sears

FILE COPY

Service List for: Cup of Gold Subdivision
Docket No. W-20637A-08-0560

Mr. Bill Stephens, P. C.
4647 North 32nd Street , Suite # 285
Phoenix, Arizona 85018

Ms. Janice Alward
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

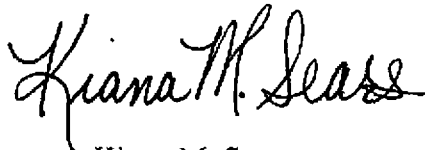
STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

CUP OF GOLD WATER COMPANY, INC.
AN ARIZONA NON-PROFIT CORPORATION
APPLICATION FOR ADJUDICATION NOT A PUBLIC SERVICE CORPORATION
(DOCKET NO. W-20637A-08-0560)

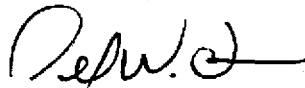
SEPTEMBER 1, 2009

STAFF ACKNOWLEDGMENT

The Staff Report for Cup of Gold Water Company, Inc. (Docket No. W-20637A-08-0560) was the responsibility of the Staff members signed below. Kiana Sears was responsible for the review and analysis of the applications. Del Smith was responsible for the engineering and technical analysis.

A handwritten signature in cursive script, reading "Kiana M. Sears".

Kiana M. Sears
Executive Consultant

A handwritten signature in cursive script, reading "Del Smith".

Del Smith
Engineer Supervisor

**EXECUTIVE SUMMARY
CUP OF GOLD WATER COMPANY, INC.
DOCKET NO. W-20637A-08-0560**

On November 4, 2008, Cup of Gold Water Company, Inc. ("Cup of Gold" or the "Company") a Arizona Non-Profit Corporation filed an application with the Arizona Corporation Commission ("ACC" or "Commission"), in Docket No. W-20637A-08-0560, for Adjudication Not a Public Service Corporation.

Cup of Gold Water Company, Inc. is an Arizona Non-Profit Corporation that was established on January 10, 1955, for the purpose of serving water to the homeowners who reside in Cup of Gold Subdivision. The Cup of Gold Subdivision has 39-lots, 25 lots receive service, while 11 lots are currently undeveloped and 3 lots are set aside for the facilities and equipment of the Water Company. The homeowners of the Cup of Gold Subdivision are the sole shareholders of the Water Company.

The water system consists of a well, storage tanks and a distribution system serving 25 metered connections. According to Arizona Department of Water Resources ("ADWR") records that were attached to the application, water is supplied by a single well equipped with 8-inch casing drilled to a depth of 760 feet having a design pump capacity of 30 gallons per minute. This flow rate should provide the system with adequate capacity.

Arizona Department of Environmental Quality ("ADEQ") regulates the water system under Public Water System Identification No. 13-028. ADEQ has determined that this system is in compliance with its requirements and is currently delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

The Water Company is not located within an ADWR Active Management Area ("AMA"), and consequently is not subject to AMA reporting and conservation requirements. ADWR reported that the Water Company is currently in compliance with departmental requirements governing water providers and/or community water systems.

Staff Recommendations

1. Staff recommends the Cup of Gold Water Company, Inc., a non-profit corporation, be adjudicated not a public service corporation.
2. Staff recommends Cup of Gold file with the Commission's Docket Control, each year during August, beginning in 2010, an annual certification by an officer that neither the recorded Covenants, Conditions, and Restrictions nor the By-laws have been changed to allow further subdivision of the 39 lots in the adjudication area, to allow an increase number of memberships, to allow for expansion of the area to be served, or to change the equal voting requirements.

3. Staff also recommends that if at any time in the future the recorded Covenants, Conditions, and Restrictions or the By-Laws Cup Of Gold are changed to allow further subdivision of the 39 lots in the adjudication area, to allow an increased number of memberships, to allow for expansion of the area to be served, or to change the equal voting requirements, then the adjudication granted herein shall become null and void after due process, and Cup of Gold shall file an application with the Commission for a Certificate of Convenience and Necessity, within 30 days of any of the above mentioned events.
4. Staff recommends that Cup of Gold be advised of its continuing obligations under the applicable laws, regulations and orders of other regulatory agencies, including, but not limited to, the Arizona Department of Environmental Quality, Arizona Department of Water Resources and Yavapai County.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
THE WATER SYSTEM	1
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY ("ADEQ") COMPLIANCE	1
ADWR COMPLIANCE	1
THE ADJUDICATION CRITERIA	1
STAFF RECOMMENDATIONS	2

ATTACHMENT(S)

ENGINEERING REPORT	A
ENGINEERING MAP	B

Introduction

On November 4, 2008, Cup of Gold Subdivision submitted an application on behalf of Cup of Gold Water Company, Inc. ("Cup of Gold" or the "Company") an Arizona Non-Profit Corporation filed an application with the Arizona Corporation Commission ("ACC" or "Commission"), in Docket No. W-20637A-08-0560, for Adjudication Not a Public Service Corporation.

Background

Cup of Gold is an Arizona Corporation, in good standing with the Commission's Corporation Division. Cup of Gold is an Arizona Non-Profit Corporation that was established on January 10, 1955, for the purpose of representing homeowners who reside in Cup of Gold Subdivision. The homeowners of the Cup of Gold Subdivision are the sole shareholders of the Water Company.

The Water System

The water system consists of a well, storage tanks and distribution system serving 25 metered connections. According to Arizona Department of Water Resources ("ADWR") records that were attached to the application, water is supplied by a single well equipped with 8-inch casing drilled to a depth of 760 feet having a design pump capacity of 30 gallons per minute. This flow rate should provide the system with adequate capacity.

Arizona Department of Environmental Quality ("ADEQ") Compliance

ADEQ regulates the water system under Public Water System Identification No. 13-028. ADEQ has determined that this system is in compliance with its requirements and is currently delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

ADWR Compliance

The Water Company is not located within an ADWR Active Management Area ("AMA"), and consequently is not subject to AMA reporting and conservation requirements. ADWR reported that the Water Company is currently in compliance with departmental requirements governing water providers and/or community water systems.

The Adjudication Criteria

The Commission issued a directive for the evaluation of applications for adjudication not a public service corporation on May 7, 1987, in Decision No. 55568. Staff has evaluated Cup of Gold's Application and found that it complies with the established criteria as follows:

1. Adjudication was submitted by a non-profit homeowners associations.
2. The application for adjudication not a public service corporation is a bonafide request by a majority of the membership of the association through a petition signed by 51 percent or more of the then existing members.
3. The association has complete ownership of the system and necessary assets.
4. Every customer is a member/owner with equal voting rights and each member is or will be a customer.
5. The service area involved encompasses a fixed territory, which is not within the service area of a municipal utility or public service corporation.
6. There is a prohibition against further sub-division evidenced by deed restrictions, zoning, water restrictions or other enforceable governmental regulations.
7. Membership is restricted to a fixed number of customers, actual or potential.

Staff recommends the Cup of Gold Water Company, Inc. a non-profit corporation be adjudicated not a public service corporation.

Staff Recommendations

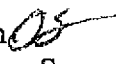
1. Staff recommends the Cup of Gold Water Company, Inc., a non-profit corporation, be adjudicated not a public service corporation.
2. Staff recommends Cup of Gold file with the Commission's Docket Control, each year during August, beginning in 2010, an annual certification by an officer that neither the recorded Covenants, Conditions, and Restrictions nor the By-laws have been changed to allow further subdivision of the 39 lots in the adjudication area, to allow an increase number of memberships, to allow for expansion of the area to be served, or to change the equal voting requirements.
3. Staff also recommends that if at any time in the future the recorded Covenants, Conditions, and Restrictions or the By-Laws Cup Of Gold are changed to allow further subdivision of the 39 lots in the adjudication area, to allow an increased number of memberships, to allow for expansion of the area to be served, or to change the equal voting requirements, then the adjudication granted herein shall become null and void after due process, and Cup of Gold shall file an application with the Commission for a Certificate of Convenience and Necessity, within 30 days of any of the above mentioned events.

4. Staff recommends that Cup of Gold be advised of its continuing obligations under the applicable laws, regulations and orders of other regulatory agencies, including, but not limited to, the Arizona Department of Environmental Quality, Arizona Department of Water Resources and Yavapai County.

MEMORANDUM

DATE: July 24, 2009

TO: Kiana Sears
Executive Consultant

FROM: Del Smith 
Engineering Supervisor

RE: IN THE MATTER OF THE APPLICATION OF CUP OF GOLD WATER
COMPANY, INC. FOR ADJUDICATION NOT A PUBLIC SERVICE
CORPORATION (DOCKET NO. W-20637A-08-0560)

Introduction

On November 4, 2008, homeowners in the Cup of Gold Subdivision ("Applicants") filed an application with the Arizona Corporation Commission ("Commission") seeking adjudication that the Cup of Gold Water Company, Inc. ("the Water Company"), which is owned and maintained by the Applicants, is not a public service corporation. The Water Company provides water service to the Cup of Gold Subdivision which consists of 39 lots.¹ The Cup of Gold Subdivision covers a 65 acre tract of land (approximately one-tenth of one square mile) near Sedona in Yavapai County.

Water Company System

The water system consists of a well, storage tanks and distribution system serving 25 metered connections. According to Arizona Department of Water Resources ("ADWR") records that were attached to the application, water is supplied by a single well equipped with 8-inch casing drilled to a depth of 760 feet having a design pump capacity of 30 gallons per minute. This flow rate should provide the system with adequate capacity.

Arizona Department of Environmental Quality ("ADEQ") Compliance

ADEQ regulates the water system under Public Water System Identification No. 13-028. ADEQ has determined that this system is in compliance with its requirements and is currently delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.²

¹ At the time of the filing 25 lots had been developed with improvements and were receiving service, 11 lots were undeveloped and 3 lots were being utilized by the Water Company.

² Compliance status as of December 23, 2008.

ADWR Compliance

The Water Company is not located within an ADWR Active Management Area ("AMA"), and consequently is not subject to AMA reporting and conservation requirements. ADWR reported that the Water Company is currently in compliance with departmental requirements governing water providers and/or community water systems.⁴

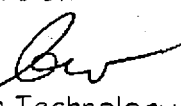
Commission Compliance


The Water Company has not been regulated by the Commission in the past therefore there is no Commission Compliance to report.

⁴ Compliance status as of December 2, 2008.

MEMORANDUM

TO: Kiana Sears
Executive Consultant I
Utilities Division

FROM: Barb Wells 
Information Technology Specialist
Utilities Division

THRU: Del Smith 
Engineering Supervisor
Utilities Division

DATE: July 24, 2009

RE: **CUP OF GOLD WATER COMPANY, INC. (DOCKET NO. W-20637A-08-0560)**
AMENDED LEGAL DESCRIPTION

The area requested by Cup of Gold for adjudication for water service has been plotted using an amended legal description, which has been docketed. This legal description is attached and should be used in place of the original description submitted with the application

Also attached are copies of the maps for your files.

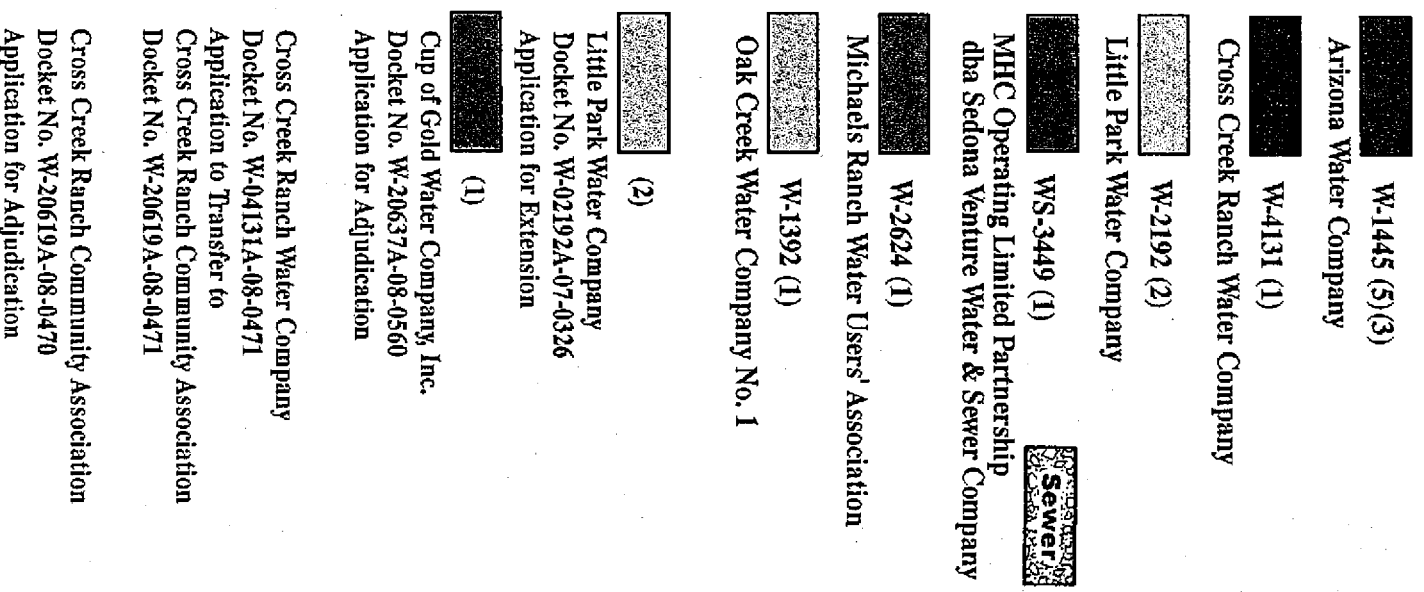
:bsw

Attachments

cc: Mr. Bill Stephens
Ms. Deb Person (Hand Carried)
Mr. Del Smith

Map No. 36

TOWNSHIP 17 North



CUP OF GOLD WATER COMPANY INC.
DOCKET NO. W-20637A-08-0500
LEGAL DESCRIPTION

Beginning at the SW corner of the N ½ of the NW ¼ of the SW ¼ of Section 33, Township 17 North, Range 5 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona;

THENCE N 02° 23' E, a distance of 645.88 feet to the West Quarter Corner of said Section 33;

THENCE N 00° 08' W, a distance of 388.22 feet;

THENCE N 00° 08' W, a distance of 1,576.50 feet to the SW corner of the N ½ of the NW ¼ of the NW ¼ of Section 33;

THENCE N 88° 02' E, a distance of 1,094.26 feet;

THENCE N 88° 02' E, a distance of 240.51 feet to the NW corner of the SW ¼ of the NE ¼ of the NW ¼ of Section 33;

THENCE N 88° 38' E, a distance of 1,408.79 feet, more or less, to the intersection of the north bank of Oak Creek and the north line of the S ½ of the N ½ of the NW ¼ of Section 33;

THENCE S 68° 38' W, a distance of 480.00 feet;

THENCE S 57° 45' 25" W, a distance of 405.20 feet;

THENCE S 59° 41' W, a distance of 155.87 feet;

THENCE S 49° 37' 40" W, a distance of 125.68 feet;

THENCE S 40° 19' 30" W, a distance of 269.01 feet;

THENCE S 54° 38' 25" W, a distance of 224.55 feet;

THENCE S 61° 46' W, a distance of 234.06 feet;

THENCE S 87° 26' 07" W, a distance of 235.98 feet;

THENCE N 80° 13' W, a distance of 248.34 feet;

THENCE S 82° 11' W, a distance of 125.62 feet;

THENCE S 62° 59' W, a distance of 206.45 feet;

THENCE S 23° 04' W, a distance of 115.51 feet;

THENCE S 14° 48' 30" W, a distance of 127.94 feet;

THENCE S 00° 28' 25" E, a distance of 417.77 feet;

THENCE S 30° 58' 08" E, a distance of 219.19 feet;

THENCE S 39° 10' 01" E, a distance of 122.56 feet;

THENCE S 39° 03' 50" E, a distance of 152.61 feet;

THENCE S 37° 33' 42" E, a distance of 149.50 feet;

THENCE S 53° 23' 34" E, a distance of 128.67 feet;

THENCE S 49° 40' 04" E, a distance of 122.00 feet;

THENCE S 54° 39' 54" E, a distance of 499.95 feet to the SE corner of the N ½ of the NW ¼ of the SW ¼ of Section 33;

THENCE S 89° 15' 25" W, a distance of 1,314.70, more or less, to the POINT OF BEGINNING.